

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

<b>Comments</b> In the Matter of:	)	
	)	
Amendment of Part 97 of the Commission's	)	RM- 10805
Amateur Service Rules to Eliminate	)	
Morse code testing on a limited basis.	)	
	)	

To: The Commission

**Comments on:** PETITION FOR RULE MAKING

Pursuant to Section 1.405 of the Commission's procedural rules (47 C.F.R. 1.405), the petitioner, Charles L. Young Jr., hereby respectfully makes the following comments in support of his petition

**CHOICES**

The Commission has three basic choices in the matter of removing code proficiency testing.

1. Do nothing and allow the current rules to continue with no change.
2. Do as requested by extreme petitioners and remove all Element 1 testing from all license classes.
3. Adopt a compromise solution that allows some HF access for no-code licensees but maintains part of the Element 1 requirement.

**RM-10805**

The rule changes requested in the petition would terminate the telegraphy examination requirement for new Technician Plus Class applicants and permit existing Technician Plus Class operators to access HF spectrum without the necessity of passing a Morse code examination and with the passage of a written test. All other license classes and requirements associated with and requiring Element 1 (telegraphy/CW) would remain unchanged. RM-10805 offers the Commission a viable option for choice #3 in the previous section.

**BURDEN OF PROOF**

Historically, the burden of proof has been required of the petitioner who must bring forth arguments that support the proposed rule change. In the case of keeping the code test for General and Extra Class licenses as proposed by RM-10805, no change is requested from current rules. Since the Commission does not have a Notice of Proposed Rulemaking ”

out for changing the code test rules, and since no change to the rules for the General and Extra Class license is requested, it is not necessary for RM-10805 to prove to the Commission why it does not ask for the regulations to be changed for these classes. It is only necessary for the petitioner to show proof why rules should be changed to allow limited HF access inasmuch as that is the only rule change requested. Petition RM-10805 accurately lists the changes to be made to the Commission rules and adequately proves the case for a limited change ONLY to the Technician Plus License class.

On the other hand, petitions before the Commission which request telegraphy testing to be entirely removed are in effect requesting wholesale change by eliminating a basic rule of Part 97 for all license classes. These petitioners must prove to the Commission that the proposed rulemaking is needed and why it is needed. They must show the public interest is not being served and identify who is hurt by failing to grant their petition.

### **THE NO CODE ARGUMENT**

All arguments to abolish code testing have revolved around four basic points:

1. Potential new blood and younger generation Amateurs are being kept away by the antiquated appearance of code testing.
2. These new blood potential Amateurs are interested in modern modes including data, video, etc.
3. The code is outdated and newer digital modes supercede the need for CW and therefore CW testing.
4. Nobody uses CW any more, the WRC removed the requirement, and CW serves no regulatory purpose so the Commission should follow suite and remove testing requirement.

RM-10805 seeks to remove the CW testing barrier to HF Phone access for Tech Plus class licenses thereby fulfilling all no-code test removal requirements except portions of argument #2 above. It should be noted that most of the modes referenced in argument #2 above are bandwidth intensive and require spectrum larger than the rules allow in HF. In addition, all modes wanted by these new blood amateurs are available now without a code testing requirement in the existing no-code Technician Class license and with spectrum that will allow their proper operation.

Therefore, as long as RM-10805 exists as an option, most all of **the arguments used by the petitioners and commentors who wish to delete all Element 1 testing are now met without the total removal of testing.**

### **FORM**

With no burden of proof required in asking that the rules are not changed for General and Extra Class licenses, RM-10805 seeks to make arguments on both sides to illustrate the many dilemmas facing the Commission in this matter. These arguments are made for the purpose of showing the petition as a compromise solution to many stated problems on both sides. In essence, the petition states that if the Commission were to accept the

points of the no-code testing petitions, and considering what has been said in the past in defense of code testing, RM-10805 offers a compromise solution.

### **REMAINING ARGUMENTS**

WRC action in essence mandates removal of all telegraphy testing - The Commission has said it will not sunset testing requirements based on the WRC action automatically. The mere fact that a few other countries are removing all testing is not a compelling reason for the US to do so. These other countries and our Amateurs are not harmed by retaining testing in this context in light of the proposed access granted to HF by RM-10805.

Telegraphy testing serves no regulatory purpose - Likewise the removal of telegraphy testing provides no large scale regulatory relief as long as HF access is available VIA the provisions of RM10805. The petitioner has no burden of proof to keep testing for the higher classes as this is the current law. A petitioner seeking to overturn these rules (considering the access provided in RM-10805) would have to prove the case of degree of harm being very high. RM-10805 makes this difficult to do.

Although all remaining arguments revolve around the outdated nature of CW, the relief provided by RM-10805 would render this issue largely mitigated. Potential amateurs would have a path to HF without the need to learn the code. Again, the petitioner has no burden of proof to keep the regulations as they are for General and Extra Class licenses.

### **FOR CONSIDERATION**

Neither for or against RM-10805, the commentor would like to ask the Commission to consider that the large group of CW trained operators can make good sense for the US ESPECIALLY in the light of other agencies removing the use of CW as a normal mode. Requiring code testing in the higher classes provides a pool of trained operators in a mode that now, only Amateur Radio, offers. In essence this is an ultimate fallback position for all emergency plans.

The two points made by pro-code testing supporters that have been in no way diminished are that CW equipment is cheap to build and operate, and, that CW requires absolutely no infrastructure support. These facts make CW tested higher class licensees a real benefit and asset to emergency planning. They provide the answer to communications in the most serious infrastructure loss imaginable.

With HF access provided by RM-10805 to no-code Tech Plus licensees, higher class licensees can continue to be tested and serve this vital emergency planning function without injury to aspiring no-code amateurs.

### **CONCLUSION**

The commentor would not object if the Commission were to take no action at all and allow testing to remain as-is. "If the Commission feels compelled to listen to arguments by those who would remove code testing, in light of what is offered in RM-10805 and the

number of no-code points addressed by this proposal, the Commission would be fully justified in dismissing all petitions and disregarding all comments calling for complete code testing removal.

In the instance where the Commission feels compelled to take some action to provide relief to amateurs for whatever reason, I respectfully ask that RM-10805 be adopted and acted upon as soon as possible.

Respectfully submitted,  
Charles L. Young Jr.  
Amateur License AG4YO  
13805 Timbercreek Drive  
Cantonment, Florida 32533

October 11, 2003